

HOUSE BILL No. 1083

DIGEST OF INTRODUCED BILL

Citations Affected: IC 30-4-2.1-18.

Synopsis: Qualified terminable interest property trusts. Adds rules for the interpretation of qualified terminable interest property trusts. Provides that, under certain circumstances, an individual who contributes assets to a trust and whose spouse is a beneficiary of the trust at the time of the contribution may not be considered to be or treated as a settlor of the trust.

Effective: July 1, 2016.

Washburne

January 5, 2016, read first time and referred to Committee on Judiciary.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1083

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 30-4-2.1-18 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]: **Sec. 18. (a) This section shall be liberally construed to**
4 **carry out its intent.**

5 **(b) This section applies to:**

6 **(1) a trust created after June 30, 2016; and**

7 **(2) any rights or interests created after June 30, 2016, in a**
8 **trust existing before July 1, 2016.**

9 **(c) The following definitions apply throughout this section:**

10 **(1) "Donee spouse" means the individual who is:**

11 **(A) the spouse of the donor spouse at the time of the donor**
12 **spouse's contribution to a trust; and**

13 **(B) a beneficiary of the trust to which the donor spouse**
14 **contributes assets.**

15 **(2) "Donor spouse" means an individual who contributes**
16 **assets to a trust that provides that the individual's spouse is a**
17 **beneficiary at the time of the contribution.**



(3) "General power of appointment" has the meaning set forth in Section 2041(b)(1) of the Internal Revenue Code (26 U.S.C. 2041(b)(1)) or Section 2514(c) of the Internal Revenue Code (26 U.S.C. 2514(c)).

(4) "Internal Revenue Code" means the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.), as amended.

(d) An individual described in any of the following may not be considered to be or treated as a settlor contributing assets to the trust described in the same subdivision:

(1) A donor spouse with respect to an irrevocable inter vivos marital trust that contains the provisions required under Section 2523(f) of the Internal Revenue Code (26 U.S.C. 2523(f)), regardless of whether the donor spouse is a beneficiary of the trust after termination of the donee spouse's interests in the trust.

(2) A donor spouse with respect to an irrevocable inter vivos marital trust that contains the provisions required under Section 2523(e) of the Internal Revenue Code (26 U.S.C. 2523(e)), regardless of whether the donor spouse is a beneficiary of the trust after the termination of the donee spouse's interests in the trust.

(3) An individual with respect to an irrevocable trust in which the individual is a beneficiary and the individual's spouse is the settlor, regardless of whether or when the individual is the settlor of a second irrevocable trust in which the individual's spouse is a beneficiary.

(e) For purposes of this section, an individual is a beneficiary of a trust if the individual:

(1) is named as a beneficiary of the trust under the initial trust; or

(2) acquires a beneficial interest in the trust as a result of the exercise of a limited or general power of appointment by a donee spouse, beneficiary, or other person.

(f) An individual who contributes assets to a trust may not be considered to be or treated as a settlor of the trust because, under the trust instrument or any other provision or law:

(1) the trustee may pay or reimburse the individual for a tax on trust income or principal that is taxable to the individual under chapter 1, 2, or 2A of the Internal Revenue Code and comparable income taxes imposed by state and local taxing authorities;

(2) the trustee may apply trust assets to payment of premiums



1 **on the life of the individual or the individual's spouse, within**
2 **the meaning of Section 677(a)(3) of the Internal Revenue Code**
3 **(26 U.S.C. 677(a)(3)); or**
4 **(3) the individual has a power described in Section 675 of the**
5 **Internal Revenue Code (26 U.S.C. 675).**

